IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 20116 of 2004

Between:

1 K.Sriramulu, s/o Injaraiah,
r/o 8-252/2, Englishpalem, Kothavari Street,
Machilipatnam,
Krishna District.
2 K.Nancharaiah, s/o Injaraiah,
r/o 13-185/1, Vennakotavari Street,
Nizampet, Machilipatnam, Krishna District.
3 Viswavijetha Cements Pvt.Limited, rep., by its M.D.,
K.B.V.V.Prasad Rao, s/o Nancharaiah,
Plot No.50 A.P.G.H.I.D.A., Kondapalli, Krishna District.
4 K.B.V.V.Prasad Rao, s/o Nancharaiah,
Viswavijetha Cements Pvt.Limited, Kondapally, Krishna
District.

..... PETITIONERS

AND

1 The Debts Recovery Tribunal, rep., by Presiding

Officer,
Visakhapatnam, Visakhapatnam District.
2 State Bank of Hyderabad, Regional Office, Vijayawada,
rep., by its Authorised Officer,
S.B.H., S.I.B., Branch, Gurunanak Nagar, Vijayawada,
Krishna District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction especially one in the nature of writ of certiorari calling for records pertaining the orders passed in I.A.No.282 of 2004 in Appeal No.14 of 2004 on the file of Debt Recovery Tribunal, Visakhapatnam dated 20-8-2004 and quash the same in so far as insisting for deposit of Rs.5 lakhs on or before 5-11-2004 is illegal and onerous.

Counsel for the Petitioners : MR.M.SURENDER RAO

Counsel for the Respondent No.1 : MR.ARAJASHEKAR REDDY (SC FOR CG).

Counsel for the respondent No.2: Mr. A. Krishnam Raju.

The Court made the following :

ORAL ORDER:

(per Hon'ble The Chief Justice)

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1. In view of the remedy available under Section 18 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, we would not have entertained the writ petition, but for the fact that Debts Recovery Tribunal has proceeded to act in highly arbitrary manner in passing the order on

20th August, 2004, which has prompted us to interject in between and without relegating the petitioner to alternative remedy, we are proceeding to set aside the order passed on 20.08.2004 in I.A.No.282 of 2004 in Appeal No.14 of 2004 by Debts Recovery Tribunal, Visakhapatnam.

2. On 21st June, 2004, interim stay was issued by the Tribunal on condition of petitioners deposing Rs.5,00,000=00 on or before 20.08.2004. This order was passed in I.A.No.282 of 2004. This application came up on 20.08.2004. Petitioners did deposit Rs.5,00,000=00 and also pointed out that on earlier occasion also they deposited Rs.1,60,500=00. Without deciding I.A.282 of 2004 stay was further extended on further deposit of Rs.5,00,000=00. We fail to understand how such an order could have been passed. The only course left open for the Tribunal was to hear and dispose of I.A.No.282 of 2004 in

case respondent – Bank has filed an application to oppose the interim prayer. It could not have directed deposit of another amount without there being any changed circumstances. Accordingly writ petition is allowed. Order dated 20th August, 2004 passed in I.A.No.282 of 2004 is set aside with direction to the Debts Recovery Tribunal, Visakhapatnam, to proceed to dispose of Appeal No.14 of 2004 in accordance with law without insisting upon any further deposit from the petitioner. No costs.

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DEVINDER GUPTA. C.J.,

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C.V. RAMULU. J.,

Dated 04.11.2004.

VRK.

To

1 The Presiding Officer, Debts Recovery Tribunal,
Visakhapatnam, Visakhapatnam District.
2 The Authorised Officer, State Bank of Hyderabad,
Regional Office, Vijayawada,
S.B.H., S.I.B., Branch, Gurunanak Nagar, Vijayawada,
Krishna District.

3. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.P.NO. 20116 OF 2004.

(Order of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 04.11.2004.